DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date:	**05/24/13**	Bill No:	**Assembly Bill 881**
Tax Program:	**Oil Spill Prevention and Administration Fee**	Author:	**Chesbro**
Sponsor:	**SF Baykeepers**	Code Sections:	**GC 8670.40**
Related Bills:		Effective Date:	**01/01/14**

BILL SUMMARY

Among other things, this bill increases the oil spill prevention and administration fee rate cap from $0.05 to $0.08 per barrel, beginning January 1, 2015. The bill also authorizes the Administrator to annually adjust the cap for inflation.

Summary of Amendments

Since the previous analysis, this bill has been amended to delete a proposed oil spill rate hike beginning January 1, 2014.

ANALYSIS

CURRENT LAW

Existing law[1] imposes an oil spill prevention and administration fee upon crude oil received at a marine terminal from within or outside the state, and upon petroleum products received at a marine terminal from outside the state. Marine terminal operators collect the fee from the owners of the crude oil or petroleum product based on each barrel the terminal receives from a vessel operating in, through, or across the state's marine waters. Additionally, a pipeline operator pays the fee for each barrel of crude oil that originates from marine-based production facilities and is transported across, under, or through the state's marine waters by pipeline.

The current fee rate cap is as follows:

Rate Period	Rate Cap
01/01/12 – 12/31/14	$0.065
01/01/15 – ongoing	$0.05

As a governor's appointee in the Department of Fish and Game, the Administrator sets the fee rate annually. The Administrator is required to prepare a plan that projects revenues and expenses over three fiscal years. The amount of the fee is set so that the projected revenue will meet current and proposed state budget needs. The Administrator may also allow for a surplus if revenues will not be adequate to meet contingencies and shortfalls.

[1] Government Code Section 8670.40

Marine terminal and pipeline operators pay the fee monthly to the Board of Equalization (BOE). Fees are deposited into the Oil Spill Prevention and Administration Fund to pay for oil spill prevention programs and studies. However, the fee does not fund oil spill response activities.[2]

PROPOSED LAW

This bill repeals and re-enacts the oil spill prevention and administration provisions to increase the fee rate cap currently scheduled to go into effect January 1, 2015, from $0.05 to $0.08 per barrel. The proposed law authorizes the Administrator to adjust the maximum fee based on the percentage increase in the California Consumer Price Index (CPI).[3]

Unrelated to the BOE, the bill also authorizes transfers from the Oil Spill Prevention and Administration Fund to the Oil Spill Response Trust Fund to fund certain Oiled Wildlife Care Network activities. Finally, the bill repeals and re-enacts provisions related to a nontank vessel fee charged by the Administrator.

BACKGROUND

In 1990, two bills[4] enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, which added several provisions[5] that address all marine oil spill prevention, administration, and response activities in California.

In 2010, the Legislature passed Assembly Bill (AB) 234 (Huffman), which would have increased the maximum amount of the fee to $0.06. Governor Schwarzenegger vetoed the bill.

AB 1112 (Ch. 583, Stats. 2011) temporarily increased the fee cap from $0.05 to $0.065, from January 1, 2012, to January 1, 2015. Thereafter, the fee rate cap decreases to $0.05.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the San Francisco Baykeepers to maintain revenues to fund the Oiled Wildlife Care Network and various oil spill prevention programs.

2. **The May 24, 2013, amendments,** among other things, repeal and re-enact the oil spill prevention and administration fee provisions which maintain the fee rate cap at $0.065 per barrel until January 1, 2015, and increase the fee rate cap currently scheduled to go into effect January 1, 2015, from $0.05 to $0.08 per barrel. The **April 22, 2013,** amendments authorized transfers from the Oil Spill Prevention and Administration Fund to the Oil Spill Response Trust Fund to fund certain Oiled Wildlife Care Network activities, and added co-authors.

3. **A possible increase in the oil spill prevention and administration fee would not create administrative difficulties for the BOE.** As previously explained, the Administrator sets the fee rate in accordance with an annual plan. Currently, the BOE administers and collects this fee, set at the maximum of $0.065. The BOE would not have

[2] The BOE also collects an **oil spill response fee** as required by Government Code Section 8670.48. Certain marine terminal operators, pipeline operators, and refiners pay a uniform oil spill response fee, in an amount not exceeding $0.25 per barrel of petroleum product or crude oil. The fee is only collected when the funds in the Oil Spill Response Trust Fund fall below the specified level.

[3] As determined pursuant to Revenue and Taxation Code (RTC) Section 2212.

[4] Senate Bill (SB) 2040 (Chapter 1248, Keene) added and SB 7 (Chapter 10, Keene) amended Government Code Section 8670.40 to impose the Oil Spill Prevention and Administration Fee.

[5] Government Code (§8670.1 et seq.), Public Resources Code (§8750 et seq.), and RTC (§46001 et seq.).

administrative difficulties either with an increase to a maximum rate of $0.08 or with subsequent annual inflationary adjustments.

COST ESTIMATE

Specifically related to the proposed rate changes, the BOE's administrative costs are minor and absorbable.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

The BOE collected approximately $32.1 million in oil spill prevention and administration fees in calendar year 2012 at the maximum rate of $0.065 per barrel of crude oil or petroleum products. We expect calendar year 2015 collections will approximate the 2012 revenues.

As of January 1, 2015, this bill increases the maximum fee by 60%,[6] to $0.08. Further, the bill allows the maximum fee to be adjusted annually for inflation, as measured by the California CPI. The Department of Finance estimates the CPI to increase by an average of 2% over the next three calendar years.[7]

REVENUE SUMMARY

- Based on the $32.1 million collected in calendar year 2012, we estimate that the oil spill prevention and administrative fee revenues will remain flat for calendar years 2013 and 2014.
- Beginning January 1, 2015, current law sets the fee cap at $0.05. Therefore, this bill would increase overall estimated revenue by $19.3 million ($51.4 million - $32.1 million = $19.3 million).
- For calendar year 2016, with a 2% CPI provision, the revenue would be $52.4 million [($51.4 million x 2% = $1 million) + $51.4 million].

The following table depicts the revenue changes:

Rate Period	Current Rate Cap Amount	Proposed Rate Cap Amount	Revenue Increase	Total Revenues
2015	$0.05	$0.08	$19.3 million	$51.4 million
2016	$0.05	$0.08[8]	$20.3 million[9]	$52.4 million[10]

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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[6] ($.08/$.05) – 1
[7] The Department of Finance provides CPI forecasts, unlike the Department of Industrial Relations (DIR). RTC Section 2212 relies upon the CPI as determined by the DIR.
[8] CPI is estimated to increase by an average of 2% over the next three calendar years.
[9] Accounts for the CPI adjustment.
[10] Accounts for the CPI adjustment.